

In re) Fair Hearing No. 11,324
)
Appeal of)

The petitioner appeals the decision by the Department of Social Welfare to deny him General Assistance benefits. The issue is whether the petitioner has the required two barriers to employment.

1. The petitioner is a thirty-four-year-old man who has been an alcoholic for at least nine years. Until recently, however, he has never sought treatment for his condition. He is currently enrolled in an alcohol rehabilitation program and has been so enrolled for the last month or so.

2. The petitioner has had a rather sketchy work history due to his alcoholism. He does not have any records of where he has worked during the last five years, but estimates he has worked at more than a dozen places as a chef or cook.

3. In January of 1991, the petitioner moved from Boston to Burlington in an attempt to get away from friends and situations which he felt were contributing to his alcoholism. Since moving to Burlington, he has held three jobs as a chef. One job, which he held for three weeks, ended when he was laid off for reasons not relayed to him. A second job as a

chef also ended after three weeks when he failed to show up for work due to alcoholism related illness. He held a third job for three and a half months, which was his longest since coming to the area, but was also terminated from that job due to his inability to attend during scheduled hours due to alcoholism.

4. In September of 1991, the petitioner applied for General Assistance benefits. At that time he filled out an application and was denied because of his lack of barriers to employment. He did not appeal that decision. However, the petitioner did provide the Department with a copy of a resume he had prepared before leaving Boston which he thought would be useful to him in seeking jobs in Burlington. The resume which the petitioner gave to the Department was apparently not solicited by them but was given to them by the petitioner in the hope that someone there might be able to assist him in obtaining employment.

5. In June of 1992, the petitioner applied again for General Assistance and was granted assistance in the form of food vouchers. The Department now maintains that that assistance was given to the petitioner in error.

6. Later in that same month, the petitioner again applied for General Assistance benefits. He was denied benefits at that time because the Department determined that he lacked only one barrier to employment. He received a written copy of the Department's decision on June 19, 1992.

The official reason stated in the notice was that "you are able-bodied, have no minor dependents, and do not have two employment barriers".

7. The Department agrees that the petitioner is enrolled in an alcohol treatment program and that that program constitutes one barrier to employment.

8. However, the Department determined that the petitioner did not meet the second claimed barrier to employability, namely lack of employment for six months or more with the same employer over the last five year period.

The Department based its latter finding upon the resume which the petitioner left with the office during his September 1991 application which listed three jobs of more than six months duration since June of 1987. The Department has no other third party evidence which would tend to show the actual time periods worked by the petitioner during the last five years. The Department relied solely upon the information given to it by the petitioner in the resume in order to make its determination.

9. The petitioner, while under oath, testified that the resume he prepared was not an accurate reflection of his actual work experience. He stated that he felt a need to fabricate a resume showing that he had longer and more steady employment than he had in actuality in order to obtain future employment. He testified that he chose employers for his resume who would be difficult to trace either because their restaurants had gone out of business,

changed hands, or had an entirely new staff. The petitioner could not recall the exact dates that he worked at any employment in the last five years and said he lost all his W-2 forms. He attributed both of these phenomena to being in an alcoholic haze during these years. However, he stated with certainty that he had never worked six months or more for any employer since June of 1987.

10. The petitioner testified that he typically lost a job after a few weeks to a couple of months because his alcoholism made him unable to regularly attend during his assigned shifts. He also stated that when he thought he could get away with it, he drank alcohol during times when he was performing his job duties.

11. The petitioner's explanation as to the reasons why he falsified his resume are found to be credible. There is no reason to believe that the petitioner would perjure himself while under oath with regard to his actual period of employment. In addition, the short periods of employment are consistent with the alcoholism problems described by the petitioner and his more recent short term jobs. Therefore, it is found that the petitioner falsified his resume in order to get employment and that his more recent testimony that he worked less than six months at every place of employment during the last five years is credible.

ORDER

The Department's decision is reversed.

REASONS

Persons who do not have children and are able-bodied can only qualify for General Assistance if they have two or more barriers to employment set forth by the Department in its regulations:

1. Age 40 or over;
2. Eighth-grade education or less;
3. Inability to read or write;
4. Lives 10 or more miles from a town of 2500 or more and has no available transportation, and cannot reasonably be expected to relocate within 30 days;
5. Has not for six consecutive months or more in the last five years been either employed by one employer or been a full-time student;
6. Released within 6 months from a mental health institution or hospital unit;
7. Participating in a state or federally funded drug or alcohol treatment program.

W.A.M. § 2607.1

The petitioner's eligibility for his General Assistance benefits rests upon his ability to prove that he has a second barrier to employment. The petitioner has urged that that barrier is lack of long term employment (less than six months in each instance) during the last five years. Since the petitioner's testimony has been found to be credible in this regard, it must be found that the barrier does indeed exist. Therefore, he must be found eligible for General Assistance benefits.

#